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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/003,911	11/01/2001	James Bennington Stopher	16,206	7743

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EXAMINER

BRYANT, DAVID P

ART UNIT

PAPER NUMBER

3726

DATE MAILED: 08/15/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/003,911

Applicant(s)

STOPHER ET AL.

Examiner

David P. Bryant

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-28 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-28 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_.
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 3, 5, 6. 6) ☐ Other: \_\_\_\_.

## **DETAILED ACTION**

### ***Claim Objections***

Applicant is advised that should claim 1 or claim 20 be found allowable, claim 18 or claim 21 will be objected to under 37 CFR 1.75 as being a substantial duplicate thereof. When two claims in an application are duplicates or else are so close in content that they both cover the same thing, despite a slight difference in wording, it is proper after allowing one claim to object to the other as being a substantial duplicate of the allowed claim. See MPEP § 706.03(k).

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 19-28 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

#### **Claims 19 and 20:**

These claims are each recited as a “method for applying discrete components onto a moving substrate” but there is no such step claimed which results in discrete component being applied to a moving substrate.

#### **Claim 21:**

This claim is recited as a “method for changing a speed of discrete components” but there is no such step claimed which results in changing the speed of a discrete component.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-7, 15, 16, 18-21, 25, and 28 are rejected under 35 U.S.C. 102(b) as being anticipated by Meyer (EP 0 812 789 A2).

Claims 1 and 18: In Figure 1, note the apparatus for applying discrete components 1 onto a moving substrate 8, and for changing a speed of discrete components in use, the apparatus including:

- a first rotatable drive member 37;
- at least a second rotatable drive member 34 which is substantially coaxial with said first drive member 37;
- a first servo motor M connected to rotate said first drive member 37;
- at least a second servo motor M connected to rotate said second drive member 34;
- a first transfer puck 2A driven by said first rotatable drive member 37;
- at least a second transfer puck 1A driven by said second rotatable drive member 34;
- a first electronic drive 46 connected to said first servo motor M, said first electronic drive configured (via programmable control 45) to selectively move said first transfer puck 2A at a first, pickup speed and at least a second, deposit speed; and
- at least a second electronic drive 47 connected to said second servo motor M, said second electronic drive configured (via programmable control 45) to selectively move said second

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transfer puck 1A at said first pickup speed and at said second deposit speed.

Claim 2: Note transport mechanism 4.

Claim 3: As clearly disclosed, the transfer pucks are configured to carry respective discrete components 1.

Claim 4: Figure 1 shows the first and second drive members 37 and 34 as being substantially concentric.

Claim 5: As shown in Figure 1, each transfer puck is operatively connected to its respective drive member via a radially extending arm.

Claims 6 and 7: See column 5, lines 13-35.

Claims 15 and 16: See column 4, lines 47-51.

Claims 19-21: Each of these independent method claims correspond directly to the structure set forth above in the explanation of the rejection of claims 1 and 18. No further explanation is required.

Claims 25 and 28: See column 5, lines 13-35.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 8-14, 17, 22-24, 26, and 27 are rejected under 35 U.S.C. 103(a) as being

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unpatentable over Meyer (EP 0 812 789 A2) in view of Blumenthal et al. (U.S. Patent No. 6,450,321).

Claims 8-14 and 22-24: Meyer teaches all claimed elements/steps, with the exceptions of the particular capabilities of the servo motors (i.e. a torque of 50 Mewton-meter) and the parameters of the deposit/pickup steps (i.e. dwell times, speed ratios, and accelerations).

The servo motor capabilities and the operating parameters of the apparatus are considered to have been obvious matters of choice, since it has been held that where the general conditions of a claim are disclosed by the prior art, discovering the optimum or workable ranges involves only routine skill in the art. *In re Aller*, 105 USPQ 233. Furthermore, Blumenthal et al., in the disclosure from column 8 (line 30) to column 11 (line 67), go into great detail about the capabilities of servomotors 60 (see Figure 4) used for varying the speed of discrete articles as they are applied onto a moving substrate, in addition to the variable parameters used to program the servomotors. To utilize at least some of the teachings of Blumenthal et al. to program the programmable controller of Meyer would have been obvious to one having ordinary skill in the art.

Claims 17, 26, and 27: Meyer teaches all claimed elements/steps, with the exceptions of a third set of a drive member, servo motor, transfer puck, and electronic drive. However, the provision of a third set is deemed to have been an obvious matter of choice, since it has been held that a mere duplication of parts is of no patentable significance unless a new and unexpected result is produced. *In re Harza*, 274 F.2d 669, 124 USPQ 378 (CCPA 1960). Furthermore, Blumenthal et al. teach, in column 5 (lines 53-63), that any number of rotatable drive members/transfer pucks/servomotors may be provided in such an apparatus to provide a desired speed ratio

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differential. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have provided a third set of such components in the apparatus of Meyer, as taught by Blumenthal et al., to provide a desired speed ratio differential.

### *Conclusion*

Telephone inquiries regarding the status of applications or other general questions, by persons entitled to the information, should be directed to the group clerical personnel. In as much as the official records and applications are located in the clerical section of the examining groups, the clerical personnel can readily provide status information. M.P.E.P. 203.08. The Group clerical receptionist number is (703) 308-1148.

If in receiving this Office Action it is apparent to applicant that certain documents are missing, e.g., copies of references cited, form PTO-1449, form PTO-892, etc., requests for copies of such papers or other general questions should be directed to Tech Center 3700 Customer Service at (703) 306-5648, or fax (703) 872-9301 or by email to [CustomerService3700@uspto.gov](mailto:CustomerService3700@uspto.gov).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to **David Bryant** whose telephone number is **(703) 308-1859**. Draft amendments or proposed changes to the application may be faxed directly to the examiner at any time via RightFAX at (703) 746-4213. The examiner can normally be reached on **Mondays-Thursdays from 6:30 AM to 5:00 PM**.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Greg Vidovich can be reached on 703-308-1513. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9302 for regular communications and 703-872-9303 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1148.

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Art Unit 3726